

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION II

In the Matter of

BELL TELEPHONE LABORATORIES, INC.  
MURRAY HILL, NEW JERSEY 07974  
NJDO06988924

Respondent.

Proceeding Under Section 3008  
of the Resource Conservation and  
Recovery Act

:  
: COMPLAINT, COMPLIANCE ORDER,  
: AND NOTICE OF OPPORTUNITY  
: FOR HEARING

: Docket No. II RCRA-85-0101

COMPLAINT

This administrative proceeding is instituted pursuant to Section 3008 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §6901 et seq.

Section 3006(b) of RCRA, 42 U.S.C. §6926(b), provides that the Administrator of the U.S. Environmental Protection Agency (EPA) may, if certain criteria are met, authorize a State to operate a hazardous waste program in lieu of the federal program. The Administrator authorized the State of New Jersey to operate a program in lieu of the federal program on February 2, 1983. Section 3008 of RCRA, 42 U.S.C. §6928, authorizes EPA to enforce the provisions of the authorized State program.

The Director of the Air and Waste Management Division of the EPA, Region II, Complainant in this proceeding, has determined that Respondent, ~~BELL TELEPHONE LABORATORIES, INC.~~ *ARSONCO, INC.* has violated the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E et seq., and the regulations promulgated thereunder, as hereinafter specified:

1. Respondent owns and operates a facility located at:

600 Mountain Avenue  
Murray Hill, New Jersey 07974

FOOT OF 13<sup>TH</sup> STREET  
CARLSTADT, New Jersey  
07072

2. By notification dated August 15, 1980, Respondent informed EPA that it conducts activities at the facility involving "hazardous waste," as that term is defined in Section 1004(5) of RCRA, 42 U.S.C. §6903(5) and in 40 CFR §261.3. By application dated November 19, 1980, Respondent requested a permit to conduct its hazardous waste activities.

November 19, 1980

AR ARSONCO, INC.  
CARLSTADT, NEW JERSEY  
07072  
NJDO044688935

3. N.J.A.C. Title 7, Chapter 26, sets standards for hazardous waste treatment, storage and disposal facilities.

4. N.J.A.C. 7:26-9.8 requires the owner or operator of a hazardous waste treatment, storage or disposal facility to prepare and maintain at the facility a copy of a plan to close the facility in a manner that minimizes or eliminates the post-closure release of hazardous waste or waste constituents. This section also sets forth the elements that must be included in a closure plan.

5. N.J.A.C. 7:26-9.10 requires that the owner or operator of a hazardous waste facility have a written estimate of the costs of closing the facility. This section also sets forth the elements that must be included in the cost estimate.

February 5, 1985  
6. Section 3007 of RCRA, 42 U.S.C. §6927, allows EPA to request certain information from parties that handle hazardous waste. On or about September 1, 1983, EPA requested ~~BELL TELEPHONE LABORATORIES, INC.~~ <sup>ARSYNCO, INC.</sup> to submit a copy of the closure plan and cost estimate for review.

February 11, 1985  
7. On or about October 7, 1983, ~~BELL TELEPHONE LABORATORIES, INC.~~ <sup>ARSYNCO, INC.</sup> submitted a copy of the closure plan/cost estimate to EPA. EPA's review of the closure plan/cost estimate established that Respondent did not provide sufficient information to meet the requirements of N.J.A.C. 7:26-9.8 and 9.10 respectively.

8. By letter dated August 21, 1984 EPA informed ~~BELL TELEPHONE LABORATORIES, INC.~~ of deficiencies in said closure plan/cost estimate requiring corrective action to comply with N.J.A.C. 7:26-9.8 and 7:26-9.10.

February 11, 1985  
9. On or about December 3, 1984, Respondent submitted to EPA a ~~revised~~ closure plan/cost estimate. The EPA has determined that, based on the review of this plan, Respondent did not provide sufficient information to meet the requirements of N.J.A.C. 7:26-9.8 and 7:26-9.10. The outstanding deficiencies and/or omissions are attached hereto (See Exhibit A). Therefore, Respondent has been and continues to be in violation of the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E et seq., and the regulations promulgated thereunder.

#### PROPOSED CIVIL PENALTY

In view of the above-cited violations, and pursuant to the authority of Section 3008 of RCRA, Complainant herewith proposes the assessment of a civil penalty in the amount of seven thousand and five hundred dollars (\$7,500.00) against ~~BELL TELEPHONE LABORATORIES, INC.~~ <sup>ARSYNCO, INC.</sup> for the violations specified hereinabove as follows:

- for the violation of N.J.A.C. 7:26-9.8	\$ 6,500.00
- for the violation of N.J.A.C. 7:26-9.10	1,000.00
	<hr/>
	\$ 7,500.00

COMPLIANCE ORDER

Based upon the foregoing, and pursuant to the authority of Section 3008 of RCRA, Complainant herewith issues the following Compliance Order against Respondent herein:

Respondent shall, within thirty (30) days of the effective date of this Compliance Order, submit a closure plan sufficient to meet the requirements of N.J.A.C. 7:26-9.8; and a cost estimate sufficient to meet the requirements of N.J.A.C. 7:26-9.10.

NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES

Pursuant to the terms of Section 3008(a)(3) of RCRA, a violator failing to take corrective action within the time specified in a Final Compliance Order is liable for a civil penalty of up to \$25,000 for each day of continued non-compliance. Such continued noncompliance may also result in suspension or revocation of any permits issued to the violator pursuant to the authority of RCRA.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

As provided in Section 3008(b) of RCRA, and in accordance with EPA's Consolidated Rules of Practices Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR Part 22, 45 Fed. Reg. 24360 (April 9, 1980) (a copy of which accompanies this Complaint, Compliance Order, and Notice of Opportunity for Hearing), you have the right to request a hearing to contest any material fact set out in the Complaint, or to contest the appropriateness of the proposed penalty, or the terms of the Compliance Order. (Consistent with the provisions of Section 3008(b) of RCRA, the hearing provided will be noticed and open to the general public, should you specifically request such a public hearing. In the absence of such a specific request, however, public notice of a scheduled hearing will not be published.)

To avoid being found in default, and having the proposed civil penalty assessed and the Compliance Order confirmed without further proceedings, you must file a written answer to the Complaint, which may include a request for a hearing. Your answer (if any) must be addressed to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York, 10278, and must be filed within thirty (30) days of your receipt of this Complaint, Compliance Order, and Notice of Opportunity for Hearing. Your answer must clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint, and should contain (1) a clear statement of the facts which constitute the grounds of your defense, and (2) a concise statement of the contentions which you intend to place in issue at the hearing.

The denial of any material fact, or the raising of any affirmative defense, will be construed as a request for a hearing. Failure to deny any of the factual allegations in the Complaint will be deemed to constitute an admission of the undenied allegations. Your failure to file a written answer within thirty (30) days of receipt of this instrument will be deemed to represent your admission of all facts alleged in the Complaint, and a waiver of your right to a formal hearing to contest any of the facts alleged by the Complainant. Your default will result in the final issuance of the Compliance Order, and assessment of the proposed civil penalty, without further proceedings.

#### INFORMAL SETTLEMENT CONFERENCE

Whether or not you request a hearing, the EPA encourages settlement of this proceeding consistent with the provisions of RCRA. At an informal conference with a representative of the Complainant you may comment on the charges and provide whatever additional information you feel is relevant to the disposition of this matter, including any actions you have taken to correct the violation, and any other special circumstances you care to raise. The Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with you in such conference, or to recommend that any or all of the charges be dismissed, if the circumstances so warrant. Your request for an informal conference and other questions that you may have regarding this Complaint, Compliance Order, and Notice of Opportunity for Hearing should be directed to ~~Kathleen Chojnowski~~, Legal Assistant, Waste and Toxic Substances Branch, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, telephone (212) 264-~~5342~~.

Please note that a request for an informal settlement conference does not extend the thirty (30) day period during which a written answer and request for a hearing must be submitted. The informal conference procedure may be pursued as an alternative to or simultaneously with the adjudicatory hearing procedure. However, no penalty reduction will be made simply because such a conference is held. Any settlement which may be reached as a result of such conference will be embodied in a written Consent Agreement and Final Compliance Order to be issued by the Regional Administrator of EPA, Region II, and signed by you or your representative. Your signing of such Consent Agreement would constitute a waiver of your right to request a hearing on any matter stipulated to therein.


#### RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

Instead of filing an answer requesting a hearing or requesting an informal settlement conference, you may choose to comply with the terms of the Compliance Order, and to pay the proposed penalty. In that case, payment should be made by sending to the Regional Hearing Clerk, EPA, Region II, a cashier's or certified check in the amount of the penalty specified



in the "Proposed Civil Penalty" section of this instrument. Your check must be made payable to the Treasurer of the United States of America.

DATED: ~~February 28, 1985~~ COMPLAINTANT:

  
CONRAD SIMON  
Director  
Air and Waste Management Division  
Environmental Protection Agency  
Region II

TO: Mr. Paul E. Wyszowski  
Group Supervisor  
Environmental Management Group  
Bell Telephone Laboratories, Inc.  
600 Mountain Avenue  
Murray Hill, New Jersey 07974

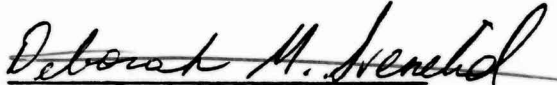
MR. Bennett Wesley  
Manager, Regulatory Affairs.  
ARSYN CO, INC.  
PO Box 8  
CARLSTADT, New Jersey  
07072

cc: Gerard Burke  
Office of Regulatory Services  
New Jersey Department of Environmental Protection

bcc: ~~Roger Ennis, (2AWM-SW)~~ <sup>THOMAS</sup>  
~~Steve Kritsan, (2AWM-SW)~~ <sup>SOLECKI</sup>  
~~Ron Testa, (2OPM-PA)~~  
~~Kathleen Chojnowski, (2ORC-WIS)~~  
Stan Siegel, (2AWM-SW)

CERTIFICATE OF SERVICE

This is to certify that on the ~~4~~ day of ~~March~~ 1985, I served a true and correct copy of the foregoing Complaint by certified mail to Mr. Paul E. Wyszowski, 600 Mountain Avenue, Murray Hill, New Jersey 07974. I handcarried the original foregoing Complaint to the Regional Hearing Clerk.

  
Clerk Typist